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#7

Applicant : David C. Schwartz
Serial no : 09/735,375
Filed : 12/12/2000
For : TWO SIDED STICKYS
Group art unit : 3722
Examiner : Nasser Ahmad

Hon. Commissioner of Patents and Trademarks
Washington, D.C. 20231

Southboro, MA 08/30/02

RESPONSE TO OFFICE ACTION

This filing is responsive to the office action of April 2, 2002. The response is filed with a two month extension and a fee of $200.00 by credit card authorization, for a small entity. If for any reason this fee is inaccurate, you are authorized to bill this credit card for any insufficient amount .

The office action being responded to in this filing was the Examiner's action in response to Applicant's filing of March 28,2001. The Office Action was dated April 2,2002(4/02/2002. That action was not final. Amended claims 1-3 were rejected and two references were cited/used.

Summary of Office Action:
1. 35 USC 103(a) was quoted-unobviousness.
2. Examiner noted claims 1-9 are rejected but Applicant corrects this to mean claims 1-3 and requests that Examiner confirm said correction as being the rejection of pending claims 1-3. Examiner rejected claims 1-3 as being unpatentable over Batchelder(3,257,678) in view of Johnson(2,346,219), citing that the loop of three panels in the shoe sole attachment application taken in combination with the perforated price tag of Johnson would have made the formation of the Applicants "sticky loop" obvious. Examiner indicates that Batchelder teaches the panel widths in his already formed figure 2 by example, and indicates that it reads on claim 3 in that the base panel width is greater than one of the folded over panels and less than the other folded over panels.
3. The Examiner quotes definiteness 35 USC 112

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4. The Examiner rejects claims 2 and 3 for being indefinite due to the misspelling of the word "width" which was incorrectly spelled as "with" in one cited line, 15. in each of claims 2 and 3.

Response To Office Action:

please amend claims 2,3 as follows
in claim 2 line 15
--->please change "predetermined with" to "predetermined width"
claim 3 line 15
--->please change "predetermined with" to "predetermined width".

35 USC 103(a) Rejection of Claims 1-3
1. Applicant respectfully notes the application first of Batchelder and understands fully the Examiner's arguments. The Examiner cites Batchelder (3,257,678) as disclosing Applicants invention in light of Johnson(2,346,219). In line with the arguments that follow, Applicant respectfully traverses the unobvious rejection of claims 1-3 based first on the application of Batchelder then based on Batchelder in light of Johnson.

Arguments to traverse:

BATCHELDER-------Applicant notes and is fully appreciative of the Examiner citing Batchelder. Applicant points out that in the original specification of his Application, on Page 1 beginning with paragraph 5, which is line #29 of page #1. Here the Applicant calls out the "equivalent" of Batchelder as known prior art and sites the problems with this structure for use in the stationery application that drives Applicant's filing. The discussion continues from the top of page #2 for the balance of the first paragraph. Batchelder in deed teaches a roll wafer dispenser and the use of a mandrel to form a loop, which loop is meant to release by separating when the sole is pulled from the list. This use plays to the limitations cited in this form of unstructured loop. It is exactly the unstructured roll openable feature of a round loop which Batchelder uses in his method patent. I now note that Batchelder is a method patent and the structures shown in his figure represent the after the fact act of having folded a strip into a loop. His fold points are not predetermined or

formed as a structure and this is purposeful and he does not teach segmented panels on a strip. This did not occur to him because he wanted a separable release of the loop to ease removal of his two objects in his invention. The appearance of a folded loop as a result of his method is already disclosed by Applicant and Applicant's invention defines, specifies, and claims a structure which is an improvement in a loop strip for use in a portable stationery products application. In fact, Applicant claims a flat strip with two specific structural elements, the perforation that defines the panel extents, and the relationship of the panel extents in this flat strip, prior to folding. A flat strip with these features is not only novel with respect to Batchelder, it is unobvious with respect to Batchelder based on the teachings of Batchelder. To elaborate further, Batchelder is a method patent that does not claim or teach Applicants structure. Batchelder presents a Roll Release Wafer which is a strip which must be non-perforated as the Batchelder application does not pretend to anticipate the formation of the adhesive fold due to the inability to anticipate the type of sole and last that the adhesive structure will be applied to. Batchelder teaches a variety of folds using releasable adhesive to offer different roll releases(hence the name roll release wafer). Batchelder is designed to not have a predetermined fold hinge and teaches a mandrel for creating a loop of the adhesive strip. The loop can be cut to the size needed based on the length of the sole, its weight, and material construction. When the sole is removed from the last, the rolled over adhesive strips that are still hanging on can be removed. Batchelder does not teach a prefabricated flat loop constructed from paper with a predetermined hinge formed as a perforated fold hint and in fact this would be contrary to the motivation of the Batchelder application. Batchelder is a method patent which teaches a process which does not rely on a specific utility structure but in fact relies on the lack of a predetermined structure. It would not have been obvious from Batchelder to perforate the strips according to the applicants embodiment.

JOHNSON:-----Johnson provides for a means to print a strip and still fold it into a piece with an adhesive back that can be used for a label on a package. Johnson's primary fold hinge is longitudinal to the Johnson device so as to permit the apportionment of an adhesive strip and a printed strip running laterally one to the other. The way the strip is cut into price tags is not material to the longitudinal perforation. The

orthongonal perforations permit tearing of price tags one from the next and do not support folding his structure into any linkedly formed element. The Johnson strip is meant to be used over a corner of a package or over an leaves of a package that are intended to be sealed one to the other in the same plane by forming a bridge across the two leaves. This teaching is in the opposite direction of Schwartz where a linked loop is formed which provides a continuous flattened band of adhesive and this flattened band is used to attach two leaves one directly to the other where the leaves must overlap for the application to work-Schwartz teaches a sandwich in which the matter between the leaves is the Schwartz sticky loop. Continuing with Johnson, Johnson's perforation folds first along the longitudinal hinge to form a strip with printing on one side and adhesive on the other. Johnson is then bridged over the corner of a package to seal an open part, thus locking in the printed surface with the price tag from opening up. As you can see, Johnson does not teach a loop of any kind because his sole purpose of his primary hinge is to allow the formation of a printed side and an adhesive side. The fact that perforating a strip is known and or applied in Johnson does not belie Applicant's invention in any manner and does not teach a predetermined plurality of panels which are to interleave in a linked deterministic manner. In fact, the perforations of Johnson are totally dependent on the size of the font and the length of the pricing message and in no way relate to a structure which forms a flat loop and therefore would not teach applicants invention alone, and would not combine with Batchelder, as if "in light of Batchelder" to cause someone skilled in the art to discover the Schwartz invention. Applicant respectfully traverses the obviousness rejection of Schwartz based on Batchelder in view of Johnson which traversal is on the basis of the above arguments. Applicant suggests that the amended claim which was submitted and which was examined is allowable over the prior art of mention in it's exact form. Applicant has submitted a sample of his invention as a flat label strip and provides a second sample where his applied for patent is formed in a strip delivered in a book. The Applicant has used an adhesive that allows the formation of a stable loop that retains its integrity once applied, lies flat, and allows for the attachment of two leaves as would be useful in the stationery attachment of two sheets of paper. Applicant suggests that this is a very crowded field in which there are many uses of folded adhesive, yet no product of the nature of this patent application is available or commercially marketed. This

patent pending structure has been commercially deployed into the mass market in notebooks. The formed wirebook with label strip sample of labeled MAXIM is commercially on the shelf at CVS stores around the country and is also enclosed. This commercial acceptance goes to the novel combination of a paper strip, adhesive, and predetermined panel allocations per the limitations of the claims submitted, formed in a planar label sheet and delivered in a nonactivated form. Applicant respectfully requests that the Examiner reconsider the rejection of Claim 1 and allow it as amended and put it inline for publication.

Rejection of Claims 2 and 3 under 35 USC 112.

Applicant has amended the claims to correctly spell "width". In light of the arguments above and the definiteness of the amended claim, Applicant respectfully traverses the Examiner's rejection and requests that the Examiner allow the claims as amended and put them in line for publishing with an allowed application.

Respectfully Submitted,
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Express mail certificate

this filing is submitted this day------August 30, 2002 by express mail from post office to addressee.

Filed this day 8/30/02
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